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In re Application of :
Gaffney et al. :
Application No. 10/636,113 : DECISION ON PETITION
Filed: 7 August, 2003 :
Atty Docket No. A01229A :

This is a decision on the petition filed on 23 September, 2005, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 10 June, 2005, for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on 9 March, 2005. Notice of Abandonment was mailed on 6 September, 2005.

It is noted that the petition form states that payment of the petition fee is enclosed, although no petition fee was received. Nevertheless, as the Issue Fee Transmittal form received with the petition authorizes the charging of "the required fee(s)" the Issue Fee Transmittal form will be construed as authorizing the charging of the required petition fee to counsel's deposit account, No. 18-1850.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions